

SENATE AMENDMENTS

2nd Printing

By: Phelan, White, Metcalf, Ashby, Toth,
et al.

H.B. No. 1177

A BILL TO BE ENTITLED

AN ACT

relating to carrying a handgun during a state of disaster.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 46.15, Penal Code, is amended by adding Subsections (k) and (l) to read as follows:

(k) Section 46.02 does not apply to a person who carries a handgun if:

(1) the person carries the handgun while:

(A) evacuating from an area following the declaration of a state of disaster under Section 418.014, Government Code, or a local state of disaster under Section 418.108, Government Code, with respect to that area; or

(B) reentering that area following the person's evacuation;

(2) not more than 168 hours have elapsed since the state of disaster or local state of disaster was declared, or more than 168 hours have elapsed since the time the declaration was made and the governor has extended the period during which a person may carry a handgun under this subsection; and

(3) the person is not prohibited by state or federal law from possessing a firearm.

(l) Sections 46.02, 46.03(a)(1), (a)(2), (a)(3), and (a)(4), and 46.035(a), (a-1), (a-2), (a-3), (b)(1), (b)(5), and (b)(6) do not apply to a person who carries a handgun if:

1 (1) the person carries the handgun on the premises, as
2 defined by the statute providing the applicable offense, of a
3 location operating as an emergency shelter during a state of
4 disaster declared under Section 418.014, Government Code, or a
5 local state of disaster declared under Section 418.108, Government
6 Code;

7 (2) the owner, controller, or operator of the premises
8 or a person acting with the apparent authority of the owner,
9 controller, or operator, authorized the carrying of the handgun;

10 (3) the person carrying the handgun complies with any
11 rules and regulations of the owner, controller, or operator of the
12 premises that govern the carrying of a handgun on the premises; and

13 (4) the person is not prohibited by state or federal
14 law from possessing a firearm.

15 SECTION 2. The change in law made by this Act applies only
16 to an offense committed on or after the effective date of this Act.
17 An offense committed before the effective date of this Act is
18 governed by the law in effect on the date the offense was committed,
19 and the former law is continued in effect for that purpose. For
20 purposes of this section, an offense was committed before the
21 effective date of this Act if any element of the offense was
22 committed before that date.

23 SECTION 3. This Act takes effect September 1, 2019.

ADOPTED

MAY 19 2019

Leta Spaw
Secretary of the Senate

By: *Creston Byrd*

H.B. No. 1177

Substitute the following for ___B. No. _____:

By: *Brandon Coe*

C.S. H.B. No. 1177

A BILL TO BE ENTITLED

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AN ACT

relating to carrying a concealed handgun following a mandatory evacuation order issued during a state of disaster.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 46.15, Penal Code, is amended by adding Subsections (k) and (l) to read as follows:

(k) Section 46.02 does not apply to a person who carries a handgun if:

(1) the person carries the handgun in a concealed manner;

(2) the person carries the handgun while:

(A) evacuating from an area following a mandatory evacuation order issued during a state of disaster declared under Section 418.014, Government Code, or a local state of disaster declared under Section 418.108, Government Code, with respect to that area; or

(B) reentering that area following the person's evacuation;

(3) not more than 48 hours have elapsed since the mandatory evacuation order was issued, or more than 48 hours have elapsed since the mandatory evacuation order was issued and the governor has extended the period during which a person may carry a concealed handgun; and

(4) the person is not prohibited by state or federal

1 law from possessing a firearm.

2 (1) For purposes of Subsection (k), "evacuating" means the
3 immediate and urgent movement of a person away from an area that is
4 subject to an evacuation order.

5 SECTION 2. The change in law made by this Act applies only
6 to an offense committed on or after the effective date of this Act.
7 An offense committed before the effective date of this Act is
8 governed by the law in effect on the date the offense was committed,
9 and the former law is continued in effect for that purpose. For
10 purposes of this section, an offense was committed before the
11 effective date of this Act if any element of the offense was
12 committed before that date.

13 SECTION 3. This Act takes effect September 1, 2019.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 20, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB1177** by Phelan (Relating to carrying a concealed handgun following a mandatory evacuation order issued during a state of disaster.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code to make certain weapons-related prohibitions inapplicable in certain circumstances. Under current statute these offenses are punished by a misdemeanor or felony with the punishment based on the specific circumstances of the offense.

This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or the demand for state correctional resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304
 Comptroller of Public Accounts

LBB Staff: WP, SD, CMa, LBO, LM, DGi

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 14, 2019

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB1177** by Phelan (relating to carrying a concealed handgun following a mandatory evacuation order issued during a state of disaster.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

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 Comptroller of Public Accounts

LBB Staff: WP, CMa, LBO, LM, DGi

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 12, 2019

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1177 by Phelan (Relating to carrying a handgun during a state of disaster.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code to make certain weapons-related prohibitions inapplicable in certain circumstances. Under current statute these offenses are punished by a misdemeanor or felony with the punishment based on the specific circumstances of the offense.

The Office of Court Administration and the Comptroller of Public Accounts do not anticipate a significant fiscal impact as a result of the bill's provisions. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or the demand for state correctional resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304
 Comptroller of Public Accounts

LBB Staff: WP, CMa, LBO, LM, DGi

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 5, 2019

TO: Honorable Poncho Nevárez, Chair, House Committee on Homeland Security & Public Safety

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1177 by Phelan (Relating to carrying a handgun during a state of disaster.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code to make certain weapons-related prohibitions inapplicable in certain circumstances. Under current statute these offenses are punished by a misdemeanor or felony with the punishment based on the specific circumstances of the offense.

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Local Government Impact

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Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304
 Comptroller of Public Accounts

LBB Staff: WP, LBO, LM, DGi

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

86TH LEGISLATIVE REGULAR SESSION

May 20, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1177 by Phelan (Relating to carrying a concealed handgun following a mandatory evacuation order issued during a state of disaster.), **As Passed 2nd House**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code to make certain weapons-related prohibitions inapplicable in certain circumstances. Under current statute these offenses are punished by a misdemeanor or felony with the punishment based on the specific circumstances of the offense.

A third degree felony is punishable by confinement in prison for a term from 2 to 10 years and, in addition to confinement, an optional fine not to exceed \$10,000.

Expanding the list of behaviors which, under certain circumstances, would not be considered prohibited behavior is expected to result in reduced demands upon the correctional resources of counties or of the State due to fewer placements onto supervision in the community or fewer admissions into state correctional institutions. In fiscal year 2018, 159 people were arrested, 37 were placed under felony community supervision, and 17 were admitted into state correctional institutions for the weapons-related offenses outlined by the bill. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant reduction in state correctional populations or the demand for state correctional resources.

Source Agencies:

LBB Staff: WP, JPo, LM, DGi

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

86TH LEGISLATIVE REGULAR SESSION

May 14, 2019

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1177 by Phelan (relating to carrying a concealed handgun following a mandatory evacuation order issued during a state of disaster.), **Committee Report 2nd House, Substituted**

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Source Agencies:

LBB Staff: WP, LM, DGi

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

86TH LEGISLATIVE REGULAR SESSION

May 12, 2019

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1177 by Phelan (Relating to carrying a handgun during a state of disaster.), **As Engrossed**

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Expanding the list of behaviors which under certain circumstances would not be considered prohibited behavior is expected to result in reduced demands upon the correctional resources of counties or of the State due to fewer placements onto supervision in the community or fewer admissions into state correctional institutions. The bill may have a positive population impact by decreasing the number of people under felony community supervision or incarcerated within state correctional institutions. In fiscal year 2018, 607 people were arrested, 68 were placed under felony community supervision, and 29 were admitted into state correctional institutions for the weapons-related offenses outlined by the bill. Although data do not exist that would allow those cases in which an individual met the requirements outlined in the bill's provisions to be isolated from all other cases, this analysis assumes the reduction would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

Source Agencies:

LBB Staff: WP, LM, DGi

LEGISLATIVE BUDGET BOARD
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CRIMINAL JUSTICE IMPACT STATEMENT

86TH LEGISLATIVE REGULAR SESSION

March 5, 2019

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